

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 329 Child Protection  
**SPONSOR(S):** Harrell  
**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 762

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice & Claims Subcommittee	12 Y, 2 N	Stranburg	Bond
2) Health & Human Services Committee			
3) Judiciary Committee			

### SUMMARY ANALYSIS

Current law provides that the public policy of the state is for each minor to have frequent and continuing contact with both parents after the parents separate or divorce. In determining a time-sharing plan for contact with both parents, a court must weigh a number of factors in deciding what is in the best interests of the child.

A recovery residence is a form of group housing that is advertised as a peer-supported, alcohol-free, and drug-free living environment. These residences may be voluntarily certified through a program administered by the Department of Children and Families. The certification program requires the recovery residence to provide various documentation and establish certain policies in the recovery residence.

The bill provides that a time-sharing plan may not require a minor child to visit a parent residing in a recovery residence between the hours of 9 p.m. and 7 a.m. The bill also provides that a certified recovery residence may allow minor children to visit a resident parent, but may not allow the children to remain between the hours of 9 p.m. and 7 a.m.

The bill does not appear to affect state or local revenues and expenditures.

The bill provides an effective date of July 1, 2017.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

##### Parenting and Time-sharing

Current law provides that it is the public policy of the state that each minor child has frequent and continuing contact with both parents.<sup>1</sup> A court must order shared parental responsibility for a minor child unless the court finds that shared responsibility would be detrimental to the child.<sup>2</sup> In determining timesharing with each parent, a court must consider the best interests of the child based on a list of factors.<sup>3</sup> These factors include:

- The demonstrated capacity and disposition of each parent to facilitate and encourage a close and continuing parent-child relationship, to honor the time-sharing schedule, and to be reasonable when changes are required;
- the anticipated division of parental responsibilities after the litigation, including the extent to which parental responsibilities will be delegated to third parties;
- the demonstrated capacity and disposition of each parent to determine, consider, and act upon the needs of the child as opposed to the needs or desires of the parent;
- the length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity;
- The geographic viability of the parenting plan;
- The moral fitness of the parents;
- The mental and physical health of the parents;
- The home, school, and community record of the child;
- The reasonable preference of the child, if the court deems the child to be of sufficient intelligence, understanding, and experience to express a preference;
- The demonstrated knowledge, capacity, and disposition of each parent to be informed of the circumstances of the minor child;
- The demonstrated capacity and disposition of each parent to provide a consistent routine for the child;
- The demonstrated capacity of each parent to communicate with and keep the other parent informed of issues and activities regarding the minor child; and
- The demonstrated capacity and disposition of each parent to maintain an environment for the child which is free from substance abuse.

A final factor allows the court to take into account any other factor that is relevant to the determination of a specific parenting plan, including the time-sharing schedule.<sup>4</sup>

##### Recovery Residences

In current law, a recovery residence is a residential dwelling unit, or other form of group housing, that is offered or advertised through any means by any person or entity as a residence that provides a peer-supported, alcohol-free, and drug-free living environment.<sup>5</sup> Recovery residences may elect to

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<sup>1</sup> s. 61.13(2)(c)1, F.S.

<sup>2</sup> s. 61.13(2)(c)2, F.S.

<sup>3</sup> s. 61.13(3), F.S.

<sup>4</sup> s. 61.13(3)(t), F.S.

<sup>5</sup> s. 397.311(33), F.S.

participate in a voluntary certification program administered through the Department of Children and Families.<sup>6</sup> Requirements for certification of a recovery residence include:

- Submission of documents, including a policy and procedure manual, rules for residents, intake procedures, refund policy, a code of ethics, proof of insurance, and proof of background screening;<sup>7</sup>
- Active management by a certified recovery residence administrator;<sup>8</sup>
- Submission of all owners, directors, and chief financial officers to a level 2 background screening;<sup>9</sup> and
- An onsite inspection of the recovery residence.<sup>10</sup>

The certification of a recovery residence may be suspended or revoked if the residence is not in compliance with any part of s. 397.487, F.S.<sup>11</sup>

### **Effect of Proposed Changes**

The bill provides that a time-sharing plan pursuant to s. 61.13, F.S., may not require a minor child to visit a parent residing in a recovery residence between the hours of 9 p.m. and 7 a.m. Additionally, the bill provides that, as a requirement to certification, a recovery residence may not allow minor children to visit or remain between the hours of 9 p.m. and 7 a.m. A certified recovery residence may allow minor children to visit resident parents during the other hours of the day.

The bill provides an effective date of July 1, 2017.

#### **B. SECTION DIRECTORY:**

Section 1 amends s. 61.13, F.S., relating to parenting and time-sharing.

Section 2 amends s. 397.487, F.S., relating to recovery residences.

Section 3 provides an effective date of July 1, 2017.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

##### **1. Revenues:**

The bill does not appear to have any impact on state revenues.

##### **2. Expenditures:**

The bill does not appear to have any impact on state expenditures.

#### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

##### **1. Revenues:**

The bill does not appear to have any impact on local government revenues.

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<sup>6</sup> s. 397.487, F.S.

<sup>7</sup> s. 397.487(3), F.S.

<sup>8</sup> s. 397.487(4), F.S.

<sup>9</sup> s. 397.487(6), F.S.

<sup>10</sup> s. 397.487(5), F.S.

<sup>11</sup> s. 397.487(8)(a), F.S.

2. Expenditures:

The bill does not appear to have any impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not appear to have any direct economic impact on the private sector.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create rulemaking authority or a need for rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.